IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8455 OF 2005

Soumitra Avinash Wardekar. .. Petitioner.

vs.

Bank of India & Ors. .. Respondents.

Mr. Shyam Diwan with Prashant Bhagwati i/by
Smt. Ruchika Nayyar for petitioner.
Mr. Satish Shetye with Swati Deshpande i/by
M.S. Bodhanwala & Co. for respondents.

CORAM : S.U. KAMDAR, J.

DATE : 20th December, 2005.

P.C.:

. By consent of the parties the following order is passed :-

1. The impugned order dated 27/9/2005 is quashed and set aside. The application for waiver of the deposit being Exhibit H to the petition is restored. The learned counsel appearing for the petitioner states that he will not press before the Tribunal the issue whether the provisions of Section 21 would be applicable in light of the fact that the decree sought to be executed is under Section 31A and not under Section 19 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993.

The learned counsel appearing for the respondent has also contended that in fact the said issue is determined by the Division Bench in the case of Bank of India vs. Shree Satya Corporation and others, reported in 2000 (4) Mh. L. J. 657. In light of the aforesaid, the petitioner is directed to hear the waiver application on its own merits without going into the question whether the provisions of Section 21 apply in the case of a decree under Section 31A. The petitioner is directed to dispose of the said waiver application within a period of three months from today. Petition is disposed of accordingly. No order as to costs. During the pendency of the said application, the respondent will not put any of the property for sale. However, attachment will continue.